

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of )  
Stephen Bedrick for Review of )  
Order No. 75-53 of the California )  
Regional Water Quality Control )  
Board, North Coast Region )

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Order No. WQ 75-25

BY THE BOARD:

On March 27, 1975, the California Regional Water Quality Control Board, North Coast Region (Regional Board), adopted Order No. 75-53, waste discharge requirements for John J. Bower, timberland and timber owner, and Robert Pardini, timber operator, for logging and associated activities to be conducted in the Triplett Gulch area, Mendocino County.

On April 24, 1975, Stephen Bedrick (petitioner), filed a petition for review of Order No. 75-53. This petition was amended on May 2, May 23, and June 2, 1975. The petitioner represents twelve named individuals. On June 6, 1975, the petitioner requested that the State Water Resources Control Board (State Board) grant a stay order. This request was supported by declarations and other documents. The State Board herein considers the issues raised in both the petition for review, as amended, and the request for a stay order.

I. BACKGROUND

On November 26, 1974, and on subsequent dates the Regional Board staff inspected the Triplett Gulch area in response

to requests of the State Coastal Zone Conservation Commission, North Coast Region, and residents of the area. John Bower, the timberland and timber owner, and Robert Pardini, timber operator, proposed logging and associated activities on about 150 acres of this area.

Triplett Gulch is located in Southern Mendocino County and contains Triplett Gulch Creek and several tributaries which flow directly into the Pacific Ocean. The Regional Board found that the geologic formation of the area includes both sandstone-shale and soft sedimentary rock formations, that soils are Hugo and Casper which are permeable with good drainage and have a loam and sandy loam texture respectively, that the slopes average 70 percent adjacent to the Creek and that the beneficial uses of the Creek include domestic water supply. The petitioner has submitted geologic and other technical information both to the Regional Board and in support of his request for a stay order. This information is considered in this Order.

The discharger filed Timber Harvesting Plan No. 1-75-99M with the California Division of Forestry for the logging and associated activities in this area. The Plan was signed by the Division staff on April 29, 1975, and included mitigation measures, some of which were directed to stream and water quality protection. It should also be noted that about 90 of the 150 acres are within the permit zone of the Coastal Zone Conservation Act. The State Commission is currently considering an appeal from the North Coast Commission's permit approval.

## II. CONTENTIONS AND FINDINGS

### Contention

The Regional Board erred in approving the proposed logging plan as this project cannot be conducted in accordance with the waste discharge requirements adopted by the Regional Board.

### Discussion and Finding

The Regional Board did not approve the proposed logging plan. Regional Boards prescribe requirements as to the nature of a waste discharge. (Water Code Section 13263(a).) This takes the form of discharge specifications, effluent limitations, prohibitions, receiving water limitations and other provisions pertaining to the waste discharge. This function is considerably different than approving a plan. The Division of Forestry fulfills the latter function in the area of timber harvesting practices and plans. The Regional Board, in this case, is concerned with the waste discharge resulting from the logging and associated activity.

The record contains considerable evidence regarding the discharger's ability to meet these waste discharge requirements. The petitioner introduced the declarations of Peter Twight, a registered professional forester, and Dr. Robert R. Curry, a geologist, both of whom visited the site. Dr. Curry concluded that due to erosion, slope, soil conditions, historical experience and other factors, the proposed logging and associated activities would seriously degrade water quality. (See Declaration dated March 17, 1975.) Mr. Twight found logging in this

area to be a "very questionable operation" and that the 20 percent increase in turbidity and sedimentation requirements could only be met by implementing certain mitigation measures. (See Declaration dated March 18, 1975.)

The Regional Board staff stated in the public hearing that they thought the waste discharge requirements could be met if the discharger conducts the operation in a careful manner implementing mitigation measures. The discharger has assured the Regional Board that requirements will be met.

The record discloses that logging and associated activities in this area could easily degrade water quality. The discharger must conduct the operation with special attention to water quality considerations. The Regional Board has imposed stringent limitations as evidenced by Discharge Specifications 1 through 5 in Order No. 75-53. The discharger has the responsibility of strict compliance with these requirements.

Order No. 75-53 contains a monitoring and reporting program. This program should be stringently followed, and the Regional Board staff should make periodic inspections of the site during the operations. Only with careful monitoring and inspection will it be possible to determine whether violations or threatened violations are occurring. The record contains testimony of individuals whose domestic water supply could be affected if requirements are not met. This also must be monitored by the Regional Board staff.

In the light of the above considerations, we find that the Regional Board did not err in its adoption of these requirements.

Contention

The Regional Board has authority to prohibit or limit logging and associated activity.

Discussion and Finding

The petitioner argues that the Regional Board should have prohibited this logging project or required a buffer zone (an area where no logging occurs) along the banks of the Creek. We have previously stated the purpose and scope of waste discharge requirements. The discharger is charged with the responsibility of compliance with requirements. If violations occur, a number of enforcement alternatives are available and should be utilized by the Regional Board.

A Regional Board may specify in waste discharge requirements certain conditions or areas where the discharge of waste will not be permitted. This was done in Order No. 75-53 by the following prohibitions:

"B. PROHIBITIONS:

1. The discharger shall not discharge soil, silt, slash, sawdust or other organic and earthen material from any logging, construction or associated activity of whatever nature into Triplet Gulch or tributaries thereto, in quantities deleterious to fish, wildlife or other beneficial uses.
2. The discharger shall not place or dispose of soil, silt, bark, slash, sawdust or other organic and earthen material from any logging, construction or associated activity of whatever nature at

locations where such materials could pass into Triplett Gulch or tributaries thereto, in quantities which would be deleterious to fish, wildlife or other beneficial uses.

3. The discharge of any oil or grease to Triplett Gulch or its tributaries is prohibited."

These prohibitions are set out in the Water Quality Control Plan, North Coast Basin. In addition, the Timber Harvest Plan contains certain mitigation measures for watershed and stream protection; however, not all of the Regional Board staff recommendations were included in such measures. (See letter to George Grogan, Deputy State Forester, dated April 7, 1975.) The map attached to Order No. 75-53 indicates that while tractors will not operate on slopes greater than 40 percent or closer than 200 feet to the Creek within the coastal permit zone, only 50 feet will be observed outside the permit zone.

#### Contention

The State Board must require an Environmental Impact Report prior to issuance of waste discharge requirements.

#### Discussion and Finding

Chapter 3, Division 6, Title 14, California Administrative Code, contains Guidelines for Implementation of the California Environmental Quality Act of 1970. Sections 15101 to 15112 contain criteria for categorically exempt projects. Adoption of waste discharge requirements is specifically an exempt project. (See Section 2714(d)(1), Subchapter 17, Chapter 3, Title 23, California Administrative Code.)

Consequently, neither the Regional nor the State Board was obligated to require an EIR prior to issuance of waste discharge requirements. We find petitioner's contention to be without merit.

### III. CONCLUSIONS

After review of the record, and consideration of all the contentions of the petitioner and for the reasons discussed in this order, the State Board concludes that the action of the Regional Board in adopting Order No. 75-53 was appropriate and proper.

